

What is a Surety Bond?

As a condition of licensure, contractors are required to post some form of security deposit with the Contractors State License Board (CSLB). Surety bonds are commonly used for this purpose, but cash or certificates of deposit may also be posted.

A surety bond is a contract in which a surety company promises the State of California that the contractor will comply with the provisions of the Contractors' State License Law (CSLL) (Chapter 9 of Division 3 (commencing with section 7000) of the Business and Professions Code.) If the contractor does not comply with the conditions of the bond, a claim may be filed against the bond. Generally, the contractor's obligation is to not commit any violations of the CSLL that are grounds for disciplinary action against the license. Furthermore, the law sets forth the specific violations which the bond will cover.

A surety bond should not be confused with an insurance policy as there are important distinctions between the two. One important distinction is that the contractor remains primarily liable for his or her own obligation, and must repay the surety for losses incurred by the surety as a result of the contractor's actions.

What is the amount of the required bond?

The amount of the required bond is:

- \$10,000 for swimming pool contractors
B & P Code Section 7071.6 (b)
- \$ 7,500 for all other classifications of
contractors B & P Code Section 7071.6 (a)

In addition, the Contractors State License Board may require a separate bond for contractors who have been disciplined, and the amounts of these bonds vary.

Once the bond had been depleted, a contractor must purchase a new bond for the license to remain in effect.

Contractors State License Board
9835 Goethe Road
Sacramento, CA 95827

A Guide to Contractor License Bonds

Who Benefits from a Surety bond?

Persons who can benefit from the bond are listed in the CSLL (B & P Code Section 7071.5), and include:

- a. Any homeowner contracting for home improvement work on the homeowner's personal family residence and who is damaged as a result of a violation of the CSLL by the licensee.
- b. Any person damaged as a result of a willful and deliberate violation of the CSLL by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.
- c. Any employee of the licensee damaged by the licensee's failure to pay wages.
- d. Any express trust fund damaged as a result of the licensee's failure to pay fringe benefits for eligible employees.

What can a contractor do to avoid a claim against a bond?

In order to prevent a claim against a bond, a contractor should always put the terms of a construction contract, and any amendments, in writing. A contractor should maintain accurate records of payments made and received, and confirm in writing any agreements reached if the project is terminated. A contractor should communicate frequently and effectively with project owners and prime or subcontractors regarding any potential or actual problems.

Many claims against the bond are filed by subcontractors and suppliers for nonpayment of invoices when due. These claims can often be avoided by communicating with the suppliers, making them aware of any circumstances which may have prevented payment, and proposing a reasonable plan for payment. Business associates are more inclined to make reasonable arrangements when they are kept informed of unusual circumstances.

How would a consumer file a claim against a bond?

- A consumer contacts the CSLB with the identity of the contractor, date of the contract, and dates of the construction work to determine the name of

the bonding company that wrote the surety bond in that year.

- The consumer contacts the surety company and provides it with a written narrative describing the problem in detail and attaching a copy of the contract and all other pertinent documents and information.
- If a consumer is not satisfied with the response of the surety company, the consumer may take the contractor and the surety company to Small Claims Court for amounts of \$2,500 or less against the surety company and up to \$5,000 against the contractor *Civil Code Section 116.220 (c)*. Claims above \$5,000 must be filed in Municipal or Superior Courts.

What is the time frame for an action to be filed against a bond?

Any action other than one to recover fringe benefits must be filed within two years after the expiration of the license period during which the act or omission occurred, or within two years of the date the license was inactivated, canceled, or revoked by the CSLB, whichever occurs first.

What if there are a number of claims filed against the bond?

If the amount of the bond is insufficient to pay all claims in full, the sum of the bond will be distributed to all claimants in proportion to the amount of their respective claims, with priority to claims for wages and fringe benefits.

What should a contractor do if a claim is filed against his/her bond?

If a contractor receives a notice from a surety company that a claim has been filed against his/her bond, the contractor should immediately contact the surety to respond fully to the claim by explaining in detail his/her position. The contractor should also submit all documentation available that is material to the claim. If a complaint was filed with the CSLB, the contractor should respond immediately and fully to the complaint and provide the CSLB all requested information for the

duration of the investigation. Both the CSLB and the surety take the complaint very seriously, and cooperation is essential to a full understanding of the facts.

What incentive does the contractor have to resolve the problem with the complainant?

If a surety pays a claim on a contractor's bond, the surety is required by law to report the loss payment to the CSLB. The contractor is obligated to reimburse the surety for any loss payment from the bond. The surety may also cancel the bond, and the CSLB may suspend the contractor's license until the surety is reimbursed. A payment from the bond may therefore affect the contractor's license and livelihood. For those reasons, the surety takes very seriously the investigation of any claim brought against a bond, and expects the contractor to share that concern.

Is a complaint filed with the CSLB automatically a claim against a bond?

A person may file a complaint with the CSLB without filing a claim against the bond. A person may also file a claim against the bond without filing a complaint with the CSLB. The surety company will investigate any claim filed against the bond, and the CSLB will investigate any complaint filed against the license. Many times, the issues involved in the two matters are related.

The CSLB and the surety company will independently resolve the issues under their respective jurisdictions. The surety company will determine if it will pay the claim, and the CSLB will decide if disciplinary action or some other resolution of the complaint is appropriate.



www.cslb.ca.gov

1-800-321-CSLB